

Federal Communications Commission

FCC 96-388

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 21 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128

Policies and Rules Concerning)
Operator Service Access and)
Pay Telephone Compensation)

CC Docket No. 91-35

Petition of the Public Telephone)
Council to Treat Bell Operating Company)
Payphones as Customer Premises)
Equipment)

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Petition of Oncor Communications)
Requesting Compensation for)
Competitive Payphone Premises)
Owners and Presubscribed Operator)
Services Providers)

**JOINT PETITION FOR
RECONSIDERATION
BY THE STATES OF
INDIANA AND NEW MEXICO**

Petition of the California Payphone)
Association to Amend and Clarify)
Section 68.2(a) of the)
Commission's Rules)

Amendment of Section 69.2(m))
and (ee) of the Commission's Rules)
to Include Independent Public)
Payphones Within the "Public)
Telephone" Exemption from End User)
Common Line Access Charges)

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The state utility commissions named below (hereinafter "the state commissions") join in the Joint Petition for Reconsideration filed by the state utility commissions of Maine et alia concerning the Report and Order issued by the Federal Communications Commission ("Commission") on September 20, 1996 (hereafter "Joint Petition").

The state commissions that by this filing join in the Joint Petition are statutorily responsible for establishing just and reasonable rates, charges, practices, and service quality standards for public utilities within their jurisdictions. They therefore are "state commission(s)" within the meaning of the Telecommunications Act of 1996.

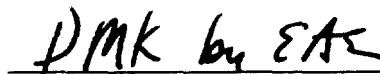
Attached to this filing is the affidavit of Joel Fishkin, which the undersigned states offer in support of the statement contained on or about page 12 of the Joint Petition that:

To a greater or lesser extent, virtually any payphone is a "mini-monopoly," depending not only on the caller's "lack of time to identify potential substitute payphones" (a circumstance that describes most callers), but on the caller's mobility, the location of other payphones and the ease of finding them.

Respectfully submitted,



Eric A. Eisen
Counsel for the Indiana Utility
Regulatory Commission
Eisen Law Office
10028 Woodhill Road
Bethesda, MD 20817



David M. Kaufman
General Counsel
New Mexico State Corporation
Commission
P.O. Drawer 1269
Santa Fe, NM 87504

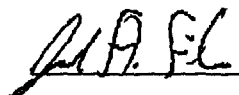
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STATE OF INDIANA
COUNTY OF MARION } SS:

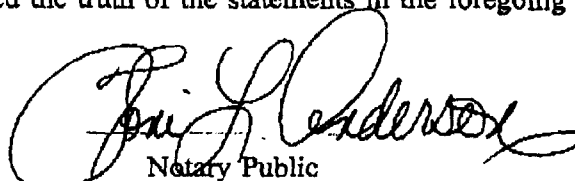
The undersigned, being duly sworn on oath says as follows:

1. I have been a Senior Utility Analyst in the Economics and Finance Division of the Indiana Utility Regulatory Commission since March 1, 1995.
2. I have a B.A. Economics from Creighton University, Omaha, Nebraska; a M.A. Economics, Indiana University -- Bloomington, Indiana; and have been admitted as Doctoral Candidate, Indiana University -- Bloomington, Indiana.
3. In the course of my employment with the Indiana Utility Regulatory Commission, I have studied the payphone market in Indiana.
4. In my opinion, the market for the local sent-paid call at a payphone in Indiana is a monopoly. Furthermore, the payphone market in other states is likely to have similar conditions. Currently, and until cellular technology becomes a economically viable substitute for payphones, there is no substitute for a payphone. It is rare that at the same location multiple payphone companies provide payphones. Within a specific location, a payphone provider will most likely charge a single local coin rate. At most locations a caller does not have the ability to seek out other alternatives due to a lack of time and uncertainty regarding other payphone locations. Moreover, a caller is unwilling to seek out other payphone locations due to the economic cost: A person's time is more valuable than the perceived difference in the price of a local coin call at another payphone location. For the reasons above, the market for the local coin call is not competitive and the market cannot be allowed to set the local coin rate.

Further affiant sayeth not


Joel A. Fishkin

Before me, a Notary Public in and for said County and State personally appeared, Joel A. Fishkin who acknowledged the truth of the statements in the foregoing affidavit on this 18th day of October, 1996.

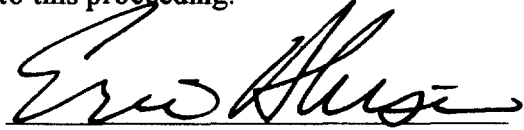

Notary Public

My term expires

Toni L. Anderson
Notary Public
Marion County
Comm. Exp. 9-10-2000

Certificate of Service

I hereby certify that I have caused the foregoing pleadings to be served by first class mail, postage prepaid, upon the parties to this proceeding.

A handwritten signature in black ink, appearing to read "Eric A. Eisen", written over a horizontal line.

Eric A. Eisen